FINAL REPORT OF THE JOINT ASSOCIATION OF MUNICIPALITIES OF ONTARIO/ASSOCIATION OF CONSERVATION AUTHORITIES OF ONTARIO/MINISTRY OF NATURAL RESOURCES COMMITTEE ON CONSERVATION AUTHORITIES

April, 1986

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PREFACE

The Association of Municipalities of Ontario has, over the past year, been involved in a joint working group with the Association of Conservation Authorities of Ontario and the Ministry of Natural Resources to pursue reform of conservation authorities in Ontario. The Association's Board of Directors reviewed the report resulting from this process at its December 6/7, 1985 meeting. AMO has supported the recommendations of this jointly produced document, subject to the following amendments:

Recommendation #2 (as amended)

> *It is strongly recommended that a Conservation Authority should be comprised of a maximum of 20 regional or local municipal representatives;*
>
> *and that all municipalities involved in CA's should actively consider an appropriate reduction in membership;*
>
> *and further that there should be one provincial appointee for every ten municipal representatives or part thereof on an authority;*
>
> *and further that those municipalities requiring advice on assistance in achieving the grouping of municipalities to effect such reductions could approach AMO for same.*

Recommendation #3 (as amended)

> *That authorities be allowed to have Executive Committees only if the size of the full authority makes such a committee necessary, that is, those which have not yet reduced their full authority membership to 20 members as per recommendation #2 of the report;*
>
> *and if there are Executive Committees, they must have a clearly defined role and responsibilities relative to that of the full authority;*
>
> *and further, that Executive Committees shall make recommendations only to the full authority in such matters as the undertaking of projects, the setting of budgets and policy decisions.*

Recommendation #4 (as amended)

> *Each new member should receive a letter from the authority outlining his or her role and responsibilities with an authority and that these clearly be set as "guidelines";*
>
> *and that each new provincial appointee should continue to receive a letter from the Minister of Natural Resources outlining his or her role and responsibilities with an authority;*
>
> *and further that each municipality or group of municipalities should establish a mechanism for their representatives to report back to council on the activities of the authority.*

Recommendation #5

Recommendation #5 itself was approved subject to the addition of the following housekeeping change to the Act:

> *that all sexist references be removed from the Act, e.g. Section 14, "...after the term for which he was appointed has expired".*

Representatives from AMO and the Association of Conservation Authorities of Ontario met with the Honourable Vincent Kerrio, Minister of Natural Resources, to discuss these proposals for conservation authority reform, and to ascertain the Ministry's intentions regarding the Report of the Joint Working Group. The meeting was also useful in clearly identifying to the Ministry areas of consensus between AMO and the ACAO and areas of non-agreement. Contentious changes will be initiated only if the Ministry receives widespread support on these recommendations from the municipalities across the Province.

One of the principal objectives of AMO is to seek legislative revisions to the Conservation Authorities Act and to seek administrative changes to the function of conservation authorities.

AMO urges that municipal councils review this document and forward your views to the Association and the Ministry of Natural Resources.

Final Report of the Joint AMO/ACAO/Ministry of Natural Resources Committee on Conservation Authorities

BACKGROUND

In 1980, the Association of Municipalities of Ontario (AMO) and the Association of Counties and Regions of Ontario (ACRO) published reports examining the role and mandate of Conservation Authorities. Both reports stated concerns related to the accountability of, membership on and responsibilities and powers of conservation authorities.

In 1983, AMO, through its County and Regional Section, entered into discussions with representatives of the Association of Conservation Authorities of Ontario (ACAO) in an attempt to resolve the issues which had been identified.

The resultant report addressed the issues of representation, mandate and accountability. It recommended certain changes which AMO believed would foster greater co-operation and understanding between municipalities and conservation authorities. The initial recommendation of the report was as follows:

> "That the Minister of Natural Resources establish a working group composed of representatives from the Ministry of Natural Resources, the Association of Municipalities of Ontario and the Association of Conservation Authorities of Ontario to develop a formula/methodology for determining municipal representation on Conservation Authorities in Ontario and to examine the function of the executive committee within a Conservation Authority and the relationships of this committee to the general membership of an Authority".

In October, 1984, the Ministers of Natural Resources and Municipal Affairs and Housing met with AMO and ACAO to discuss their joint report. As a result of this meeting, the Minister of Natural Resources established a working group to deal with the matter of municipal representation on authorities. As well, the Minister asked the group to consider the matter of boundary adjustments for conservation authorities. The working group was comprised of four representatives each from AMO and ACAO and was chaired by the Director of

the Conservation Authorities and Water Management Branch, Ministry of Natural Resources. The discussions of the working group culminated in the preparation of the following report.

ISSUES

BOUNDARY ADJUSTMENTS

Section 1(1) of the Conservation Authorities Act defines watershed as an area drained by a river and its tributaries. Sections 2(1), 3(1), 9 and 10 indicate that the establishment, enlargement or amalgamation of conservation authorities must occur on the basis of a watershed or group of watersheds. Clearly, any consideration of boundary adjustments must, therefore, adhere to the watershed principle.

In terms of the existing 38 conservation authorities, some of the factors which might lead to further discussions on boundary adjustments are as follows:

- More than one conservation authority exists on the same watershed.
- A conservation authority can not maintain a viable ongoing program because of a limited physical or financial base.
- A conservation authority is unable to finance the required levels of competent, qualified administrative and technical staff.
- Significant savings in operating costs could be achieved combined with more effective program delivery.

Unfortunately, in the past any serious consideration of boundary adjustments have often been thwarted by the built-in bias of the members and/or staff of affected conservation authorities and municipalities. One possible solution would be to have a small group of their peers lead the affected parties through an honest review of their current situation and the pros and cons of boundary adjustments. If physical boundary adjustments are just not feasible, then the affected conservation authorities could consider an active work sharing program including staff, equipment and other physical resour-

ces. Any consideration of work sharing must look at all areas and programs of an authority including finance and administration, technical, and field operations.

One of the most important considerations in any discussion on boundary adjustments is financial. The conservation authorities and their member municipalities will have to be assured that there will be no loss of funding or reduction in grants as a result of boundary adjustments. In actual fact, it may require some financial incentives by the province if it wants to see these boundary adjustments actively pursued by the affected parties.

During the discussion, it was noted that this issue was not of great concern to AMO originally, and did not form part of the AMO/ACAO joint report. It was concluded that boundary adjustments would only occur if and when the affected parties recognized some real benefits to their own organization. The province could force the issue; however, this action would create a lot of animosity that would make it extremely difficult for the affected parties to work together effectively in the future.

Recommendation #1

While specific boundary adjustments can not be identified from the analysis to date, it is recommended that all conservation authorities and their member municipalities give this matter serious consideration in light of the factors identified in this report;

and that the Minister of Natural Resources request the Association of Conservation Authorities of Ontario to establish a small group of authority members and staff to assist the authorities with an unbiased review of individual situations in this regard.

MEMBERSHIP REDUCTION

Section 2(2) of the Conservation Authorities Act provides the following formula based on population for the appointment of representatives to a conservation authority by the participating municipalities:

greater than 250,000 - 5 representatives
100,000 - 250,000 - 4 representatives
50,000 - 100,000 - 3 representatives
10,000 - 50,000 - 2 representatives
less than 10,000 - 1 representative

This section clearly establishes the right of each participating municipality, regardless of its size and population, to appoint at least one representative to the conservation authority.

Section 8 of the Act provides for the grouping of municipalities for the purpose of appointing a member or members to conservation authorities. This section of the Act has been used in the past by the Grand River and Long Point Region Conservation Authorities to achieve membership reductions. It will be used effective January 1, 1986, to achieve similar results for the Metropolitan Toronto & Region Conservation Authority. A few other authorities are actively considering this approach as well.

The issue of membership reduction is tied in directly with the issue of Executive Committees for conservation authorities. Based on the 13 authorities that currently do not operate with Executive Committees, it would appear that approximately 20 municipal members should be the maximum if the full authority is to deal effectively with the business of the organization on a regular basis. The reduction in municipal members would have to be achieved by the grouping of member municipalities of an authority under Section 8 of the Conservation Authorities Act. Once the appropriate grouping of municipalities had been worked out, the population formula under Section 2(2) could then be applied to achieve the desired reduction. Municipalities interested in achieving such a reduction could approach AMO for advice and assistance in achieving the proper grouping of municipalities.

Currrently, there are 18 conservation authorities with a municipal membership of less than 20. A membership reduction could also be achieved with these authorities through the grouping of member municipalities. Once again municipalities that are interested in achieving such a reduction should approach AMO for advice and assistance.

With respect to who gets appointed as municipal representative, AMO has reaffirmed its position that this decision should be left up to the individual municipality. AMO does not advocate that only elected people serve as Authority members.

Section 14(6) of the Conservation Authorities Act provides for the province to appoint up to three members to each conservation authority. If the conservation authority and their member municipalities are prepared to consider a reduction in municipal members, then the Minister should be willing to reduce the number of provincial appointees. It would therefore be appropriate to have one provincial appointee for every ten municipal representatives or part thereof.

Recommendation #2

It is strongly recommended that a Conservation Authority should be comprised of a maximum of 20 municipal representatives;

and that those municipalities involved in conservation authorities with less than 20 municipal representatives should actively consider an appropriate reduction in membership;

and further that there should be one provincial appointee for every ten municipal representatives or part thereof of an authority;

and further that those municipalities requiring advice or assistance in achieving the grouping of municipalities to effect such reductions could approach AMO for same.

EXECUTIVE COMMITTEES

Section 19(1) of the Conservation Authorities Act indicates that an Authority may appoint an executive committee from among the members of the authority. Section 30(1)(d) of the Act indicates the powers of the authority that can not be delegated to an executive committee.

An authority has the right to an Executive Committee or any other committee that it wishes to have. The need for an Executive Committee should be viewed in light of the size of the full authority as outlined previously and the potential for an overall membership reduction. It should be recognized that the power and responsibilities of executive committees has been one of the underlying concerns of AMO. It is this concern which has in part resulted in the recommendation on membership reductions. A reduced membership should mean that many authorities will no longer require an Executive Committee.

Each authority that decides to have an Executive should clearly define the role and responsibilities of the committee relative to those of the full authority in its administrative policies. The authorities should involve all of their members in important matters such as the undertaking of projects, the setting of budgets, and various policy decisions. This should help to overcome any perception that a small group in the authority is controlling all decision-making.

Recommendation #3

That authorities be allowed to have Executive Committees where the size of the full authority makes such a committee necessary;

and that these Executive Committees have clearly defined roles and responsibilities relative to that of the full authority;

and further that authorities involve all of their members in important matters of the authority such as the undertaking of projects, the setting of budgets and various policy decisions.

ROLE OF AUTHORITY MEMBERS

Progressive decision-making in an authority is a function of the quality of its members. Since each municipality or group of municipalities is responsible for the appointment of a member or members to an authority, it is critical that these representatives have the time, interest and experience required to function effectively on the authority. The province currently sends any new provincial appointee a letter outlining his or her role and responsibilities with the authority. A similar letter should be sent to each new municipal representative on an authority by the Chairman of that authority. When the municipalities make their appointments to an authority, they should clearly point out how and when they expect reports back to council on authority matters.

Recommendation #4

Each new member should receive a letter from the authority outlining his or her role and responsibilities with an authority (content should include items listed in Appendix A);

and that each new provincial appointee should continue to receive a letter from the Minister of Natural Resources outlining his or her role and responsibilities with an authority (example attached as Appendix B);

and further that each municipality or group of municipalities should establish a mechanism for their representatives to report back to council on the activities of the authority.

CHANGES TO THE CONSERVATION AUTHORITIES ACT

The AMO/ACAO joint report prepared in 1983 contained a total of eleven recommendations. At the October, 1984 meeting of the Minister of Natural Resources, AMO, and ACAO, there was agreement that seven of the eleven recommendations would require changes to the Conservation Authorities Act. They are as follows:

3. That municipalities be permitted to terminate their appointments(s) at any time.

4. That advisory boards be changed to standing committees and that all members of such committees must be members of the Authority.

5. That one-half plus one of the members (simple majority) would constitute a quorum for any meeting.

7. That the Minister, the affected municipality, as well as the applicant, have the right to appeal with respect to any decision concerning fill, construction and alteration to waterways regulations.

8. a. That Authorities circulate a copy of preliminary budget estimates to all member municipalities for comment prior to adoption by the authority.

10. That the voting privileges for conservation authority members be revised consistent with the Municipal Act.

11. That provisions similar to those contained in the Municipal Elections Act be added to the Conservation Authorities Act to provide for situations involving a tie vote in the election of any officer of the authority.

Recommendation #5

That the Minister of Natural Resources proceed with the seven housekeeping changes to the Conservation Authorities Act as recommended in the Association of Municipalities of Ontario/Association of Conservation Authorities of Ontario joint report titled "Reform and Revision of Conservation Authorities of Ontario" - dated May, 1983.

SUMMARY OF RECOMMENDATIONS

1. While specific boundary adjustments can not be identified from the analysis to date, it is recommended that all conservation authorities and their member municipalities give this matter serious consideration in light of the factors identified in this report;

   and that the Minister of Natural Resources request the Association of Conservation Authorities of Ontario to establish a small group of authority members and staff to assist the authorities with an unbiased review of individual situations in this regard.

2. It is strongly recommended that a conservation authority should be comprised of a maximum of 20 municipal representatives;

   and that those municipalities involved in CAs with less than 20 municipal representatives should actively consider an appropriate reduction in membership;

   and further that there should be one provincial appointee for every ten municipal representatives or part thereof of an authority;

   and further that those municipalities requiring advice or assistance in achieving the grouping of municipalities to effect such reductions could approach AMO for same.

3. That Authorities be allowed to have Executive Committees where the size of the full authority makes such a committee necessary;

   and that these Executive Committees have clearly defined roles and responsibilities relative to that of the full authority;

   and further that authorities involve all of their members in important matters of the authority such as the undertaking of projects, the setting of budgets and various policy decisions.

4. Each new member should receive a letter from the authority outlining his or her role and responsibilities with an authority (content should include items listed in Appendix A);

and that each new provincial appointee should continue to receive a letter from the Minister of Natural Resources outlining his or her role and responsibilities with an authority (example attached as Appendix B);

and further that each municipality or group of municipalities should establish a mechanism for their representatives to report back to council on the activities of the authority.

5. That the Minister of Natural Resources proceed with the seven housekeeping changes to the Conservation Authorities Act as recommended in the Association of Municipalities of Ontario/ Association of Conservation Authorities of Ontario joint report titled "Reform and Revision of Conservation Authorities of Ontario" - dated May, 1983.

APPENDIX A

RESPONSIBILITIES OF MUNICIPAL APPOINTED MEMBERS OF CONSERVATION AUTHORITIES

1. The most fundamental responsibility of the member is to properly represent the interests of the municipality. To this end the member must keep abreast of any matters or issues before the Conservation Authority which would affect the municipality, must make the substance of these known to the municipal council and staff and must take the views of the municipality known to the Conservation Authority as to the preferred disposition of such matters or issues.

2. The member also has a second very fundamental responsibility which is the consideration of the interests and needs of the Conservation Authority as a whole. The member is not only the representative of the municipality but is also a member of the Board of Directors of the Conservation Authority. The situation is no different than an alderman representing a ward in a municipality and being a member of municipal council in the broad corporate sense as well. In all cases, the member must use good judgement and common sense in balancing the interests of the municipality with the broader interests of the Conservation Authority and the other member municipalities.

3. The member has a responsibility to establish an effective reporting relationship with the municipal council and staff. There are no hard and fast rules in this area; some municipalities prefer comprehensive reports at regular intervals while others prefer a system best described by "as required". Whatever the system used, it will be a success if it satisfies three basic criteria:

    i. the municipality is confident its interests are being well represented on the Conservation Authority;

    ii. the member is confident as to the concerns of the municipality and its support in their pursuance;

    iii. the Authority is confident that its member municipalities are kept well informed of the Authority's interests by their representatives.

4. The member has a responsibility to the residents of the municipality. Matters frequently arise which may not concern the municipality per se but which do concern the individual citizen and the Conservation Authority. The member has a responsibility to bring the two parties together and to attempt to achieve the best possible resolution of the matter.

5. The member has a responsibility to become fully conversant with the policies, programs and activities of the Conservation Authority in order that the member may knowledgeably fulfill the position and properly represent the municipality and the Conservation Authority in the public arena.

6. The member is a public official and thus has a responsibility to be guided by, and adhere to, the rules of conduct, explicit and implicit, for all such holders of public office in the Province of Ontario.

APPENDIX B

LETTER TO PROVINCIAL APPOINTEES TO CONSERVATION AUTHORITIES

You were recently appointed to the ..... Conservation Authority by the Lieutenant Governor in Council on the recommendation of Cabinet. Your appointment is for a three year term. I wish to extend my congratulations to you and offer a few comments which may be helpful to you.

On occasion, the question has been raised as to the responsibilities of a provincially-appointed authority member. In my opinion, a member appointed by the province has no special responsibilities. You are expected to be an interested and active member of the Conservation Authority participating with the other members in the discussion and decisions of the Authority. You are eligible to be elected to any office in the Authority.

As a provincially-appointed member, you should endeavour to have a viewpoint for the whole watershed and not one limited to the particular municipality in which you reside. Your attitude to the Authority should be constructive and positive but with criticism given when it seems justified. The province does not view the appointees as "watchdogs" of the Authority. Such an attitude would quickly alienate provincially-appointed members from their municipally-appointed colleagues. Nor are there any implicit reporting responsibilities back to me. You are members-at-large and I would urge you to take an active part in the work of the Conservation Authority. I am of course interested in hearing from you on any specific item at any time, if you should feel that this sort of dialogue would be appropriate.

Conservation Authorities have an important task which they share with this ministry and with other ministries responsible for the management of our natural resources. May I assure you that my colleagues and I appreciate your willingness to devote some of your time and talents to working with your Conservation Authority.

Yours sincerely,

Minister of Natural Resources